

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LUIS VELASCO HERNANDEZ,)	
)	
Petitioner,)	Case No. C09-973-RSM
)	
v.)	ORDER DISMISSING
)	FEDERAL HABEAS PETITION
TIMOTHY WENGLER,)	WITHOUT PREJUDICE
)	
Respondent.)	

The Court, having reviewed petitioner's amended petition for writ of habeas corpus, respondent's answer thereto, the Report and Recommendation of Brian A. Tsuchida, United States Magistrate Judge, and the remaining record, does hereby find and Order:

(1) The Court adopts the Report and Recommendation.

(2) Petitioner's amended federal habeas petition (Dkt. 7), and this action, are
DISMISSED without prejudice for failure to exhaust state court remedies.

ORDER DISMISSING FEDERAL HABEAS PETITION
WITHOUT PREJUDICE- 1

1 (3) No Certificate of appealability shall be issued.

2 (4) The Clerk is directed to send copies of this Order to petitioner, to counsel for
3 respondent, and to Judge Tsuchida.

4 DATED this 31 day of March 2009.

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7 RICARDO S. MARTINEZ
8 UNITED STATES DISTRICT JUDGE
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